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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,066	08/30/2001	Charles A. Howland	W0490/7030 RJP	8318
24222	7590	08/31/2004	EXAMINER	
MAINE & ASMUS 100 MAIN STREET P O BOX 3445 NASHUA, NH 03061-3445			BOYD, JENNIFER A	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/944,066

Applicant(s)

HOWLAND, CHARLES A.

Examiner

Jennifer A Boyd

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.  
4a) Of the above claim(s) 40-62, 67-78, 87, 91-92, 96, 100, 107-121, 126-129, 132, 135-158, 162-199 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1, 6-24 and 29-39 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. The Applicant's Amendments and Accompanying Remarks, filed June 24, 2004, have been entered and have been carefully considered. Claims 40 - 62, 67 - 78, 87, 91, 92, 96, 100, 107-121, 126-129, 132, 135-158 and 162-199 are withdrawn, claims 1, 6 - 24 and 29 - 39 are rejected and claims 1, 6 - 24, 29 - 62, 67 - 78, 81, 91 - 92, 96, 100, 107 - 121, 126 - 129, 132, 135 - 158 and 162 - 199 are pending. The invention as currently claimed is not found to be patentable for reasons herein below.

### ***Claim Rejections - 35 USC § 102***

2. Claim 1, 6, 7, 9, 11 - 12, 15 - 18, 21 - 23 and 29 - 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Bachner, Jr. et al. (US 5,471,906). The details of the rejection can be found in paragraph 3 of the previous Office Action dated March 24, 2004. The rejection is maintained.

### ***Claim Rejections - 35 USC § 102/103***

3. Claim 24 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bachner, Jr. et al. (US 5,471,906). The details of the rejection can be found in paragraph 5 of the previous Office Action dated March 24, 2004. The rejection is maintained.

***Claim Rejections - 35 USC § 103***

4. Claims 8, 10 and 13 - 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bachner, Jr. et al. (US 5,471,906). The details of the rejection can be found in paragraph 6 of the previous Office Action dated March 24, 2004. The rejection is maintained.

5. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bachner, Jr. et al. (US 5,471,906) in view of Thomas et al. (US 2003/0022583 A1). The details of the rejection can be found in paragraph 7 of the previous Office Action dated March 24, 2004. The rejection is maintained.

***Response to Arguments***

6. Applicant's arguments filed June 24, 2004 have been fully considered but they are not persuasive.

7. In response to Applicant's argument that Bachner's *cover* 26 is not an intimate or integral layer but a slip, it is noted that the features upon which applicant relies (i.e., the cover being a intimate or integral layer or not being a slip layer) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). If the Applicant requires that the first layer of fabric is laminated or adhered by some means to the second layer, the Applicant should include such limitations in the claims. It should be noted that the currently does not require that the first and second layer are laminated or

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adhered only that they are attached together in some fashion. It is the position of the Examiner that the term “attached” is broad and only requires that they are connected in some fashion (i.e. held together by the cover 26).

8. In response to Applicant’s argument that Bachner discloses a different structure than the present invention, the Examiner respectfully argues the contrary. Bachner, Jr. teaches an *armour panel 22* containing a *cover 26* and a *penetration-resistant armor layer 28* (column 3, lines 40 – 53). See Figure 5. Bachner, Jr. teaches that the *penetration-resistant armor layer 28* comprises multiple layers of flexible penetration-resistant fabric, **equated to multiple layers of Applicant’s “first layer”**, such as woven aramid fibers of KEVLAR 29 or 129 or non-woven reinforced plastic called SPECTRA SHIELD (column 3, lines 41 – 53). Bachner, Jr. teaches that the cover can be laminated to the *penetration-resistant layer 28* by means of a suitable *breathable material 34*, **equated to Applicant’s “second layer”**, which can be selected from polyurethanes, porous polyolefins, porous fluorinated polymers and the like (column 4, lines 30 – 45). It should be noted that Bachner discloses both the high strength, greater than 10 grams/denier, puncture resistant layer equated to layer 28 and the porous breathable membrane equated to layer 34.

9. In response to Applicant’s argument that there is no rational basis for combining Bachner with Thomas, the Examiner respectfully argues the contrary. Bachner and Thomas are both directed to body armor and therefore are considered to be analogous art. Thomas provides sufficient motivation to use a felted fabric as the first layer due to the fact that the use of needlepunched non-woven fabrics prevent the penetration of sharp objects in that the fibers

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cannot be easily moved aside due to the lack of symmetry in the fiber arrangement (Thomas, page 4, [0078]).

***Conclusion***


10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Boyd whose telephone number is 571-272-1473. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jennifer Boyd  
8/25/09

  
**Ula C. Ruddock**  
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